

MINUTES
BOARD OF APPEALS
VILLAGE OF SEA CLIFF
VILLAGE HALL
300 SEA CLIFF AVENUE
SEA CLIFF, NEW YORK 11579

October 30, 2014

Present:	Chair	Dina Epstein, Esq.
	Members	Ted Kopczynski
		Noel Griffin
		James Toner, Esq.
		Amy Marion, Esq.
	Village Attorney	Brian S. Stolar, Esq.

The meeting was called to order at 8:00 pm.

The Board noted that the October 21, 2014 meeting was not held, and that notice that the meeting and the hearings scheduled for that night were adjourned to this meeting was given to all applicants and known interested parties and that notice also was posted on both exterior doors at Village Hall.

The Board opened the public hearing on the application of Jackie Nathel, 94 Glenlawn Avenue, Sea Cliff, New York for permission to modify the conditions of an approval granted previously by the Board in relation to the construction of a swimming pool in a front yard, where no such pool is permitted. Premises are designated as Section 21, Block 222, Lot 72 on the Nassau County Land and Tax Map. The Board closed the hearing, and reserved decision.

Ms. Marion arrived at the beginning of the Spencer presentation.

The Board opened the public hearing on the application of Kenneth Spencer, 42 Laurel Avenue, Sea Cliff, to construct a single story rear addition, which construction requires variances of the following Village Code provisions: (a) 138-504 to maintain a lot size of 9,000 square feet, where a minimum of 10,000 square feet is required; (b) 138-

506 to maintain a front line length of 90 feet, where the minimum required length is 100 feet; (c) 138-508 to maintain a front yard setback of 16.3 feet, where the minimum required is 25 feet; (d) 138-509 to maintain a lot width at the setback line of 90 feet, where the minimum required is 100 feet; (e) 138-511 to maintain a side yard setback of 11.25, and also create a side yard setback of 11.25 feet, where the minimum required setback is 15 feet; (f) 138-512 to construct an addition with a rear yard setback of 27.16 feet, where a minimum of 30 feet is required; (g) to maintain a building that encroaches into the height setback ratio plane; and (h) 138-1102 to increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 195, Lot 5 on the Nassau County Land and Tax Map. The applicant was represented by Elisa Santoro, Esq. The Board closed the hearing, and reserved decision.

The Chair recused herself from participation in the Vira matter and stepped away from the dais. On motion duly made by Mr. Kopczynski, seconded by Mr. Griffin, and adopted four votes in favor, and the Chair having recused herself and not participating, the Board designated Mr. Toner to serve as acting chair for the Vira application.

The Board opened the public hearing on the application of Manish and Pooja Vira, 328 Carpenter Avenue, Sea Cliff, New York to reconstruct a residence, which construction requires variances of the following Village Code sections: (a) 138-513 to maintain a height of 38.6 feet where a maximum of 30 feet is permitted; and (b) 138-514.1 to increase the floor area to 5,133 square feet, where a maximum of 4,389 square feet is permitted. Premises are designated as Section 21, Block 60, Lot 256 on the Nassau County Land and Tax Map. Mr. Vira discussed the changes between the current proposal and previous application denied by the Board. The primary changes are that the front porch has been reduced from a depth of 12 feet to a depth of 8 feet, and the breezeway connecting the house to the garage was removed. As a result of these changes, the applicants were able to reduce the floor area to 5,133 square feet

(previous application proposed 5,688 square feet) and eliminate the side yard setback variance. Mr. Vira explained that the purpose of the changes was to reduce the mass and overall volume of the house. Mr. Vira also explained that the applicants were interested in pursuing an approval for a modification of the current application. The Board noted that it had received certain plans related to such a modification. Mr. Vira's architect, William Wall, AIA, noted that the modified plans would provide for a connected breezeway, but that the breezeway would have a flat roof at a height lower than the existing garage roof. Based on this presentation relating to the modified plans, Board's counsel noted that the modified plans would create a side yard setback variance and that the Board lacked jurisdiction to consider that variance until it was included in the application and the required public hearing notice. The Board stated that the applicant could make the modification, and if a properly completed set of plans were provided timely to the building department for review, and notice of the additional variance provided to the neighbors and the newspaper, the Board could consider the request at its November 18, 2014 meeting. The applicants consulted with their architect and advised the Board that they sought approval for the application in its submitted form and would not now seek approval for the modified plans connecting the garage to the residence. The Board closed the hearing, and reserved decision.

The Chair resumed her position as Chair and returned to the dais.

The Board opened the continued public hearing on the application of Rachel Gonzalez and Gerard Camarano, 21 Laurel Avenue, Sea Cliff to construct a second floor addition, which construction requires variances of the following Village Code sections: (a) 138-506 to maintain a front property line length of 75 feet, where a minimum of 100 feet is required; (b) 138-507 to maintain a lot width of 75 feet, where a minimum of 100 feet is required; (c) 138-509 to maintain a lot width at the setback line of 75 feet, where a minimum of 100 feet is required; (d) 138-511 to maintain side yard setbacks of 9.5 and

12.8 feet, where the minimum required setback is 15 feet; (e) 138-513.1 in that the construction will encroach into the height-setback ratio plane, where no such encroachment is permitted; and (f) 138-1102 in that the addition will increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block K, Lot 4 on the Nassau County Land and Tax Map. Mr. Camarano presented the application. The Board noted that the applicant had submitted a recorded deed. The Board closed the public hearing, and reserved decision.

The Board discussed the Nathel application. On motion duly made by the Chair, seconded by Mr. Kopczynski, and adopted four votes in favor and Ms. Marion (who arrived at the meeting after the Nathel hearing was concluded) abstaining, the Board determined that the Nathel application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Spencer application. On motion duly made by Mr. Toner, seconded by the Chair, and adopted four votes in favor and Ms. Marion abstaining, the Board determined that the Spencer application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

The Board discussed the Gonzalez/Camarano application. On motion duly made by Ms. Marion, seconded by the Chair, and adopted three votes in favor and Mr. Griffin and Mr. Kopczynski abstaining, the Board determined that the Gonzalez/Camarano application is a Type II matter under SEQRA which requires no further environmental review and denied the application in accordance with the decision annexed hereto.

The Board discussed the Vira application. The Chair, who had recused herself, did not participate in the deliberations on the application. On motion duly made by Mr. Griffin, seconded by Mr. Toner, and the Chair abstaining, the Board determined that the

Vira application is a Type II matter under SEQRA which requires no further environmental review and granted the application in accordance with the short form decision annexed hereto.

There being no further business, the meeting was adjourned at 9:50 pm.

DINA EPSTEIN, CHAIR

NATHEL SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 30, 2014, on motion of the Chair, seconded by Mr. Kopczynski, and adopted four votes in favor and Ms. Marion abstaining, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Jackie Nathel, 94 Glenlawn Avenue, Sea Cliff, New York applied for permission to modify the conditions of an approval granted previously by the Board in relation to the construction of a swimming pool in a front yard, where no such pool is permitted. Premises are designated as Section 21, Block 222, Lot 72 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises. The Board previously granted variances to permit the applicant to construct a swimming pool in the front yard. The applicant, now seeks to retain the driveway and curb cut along Circle Way, which conditions were proposed to be removed as part of the original application.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, (b) the applicant shall install, and continuously maintain for so long as the variance is required, evergreen screening between the pool area and the driveway in a manner that restricts visibility of the pool from the driveway and the street, and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of November 2014

Marianne Lennon, Village Clerk

SPENCER SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 30, 2014, on motion of Mr. Toner, seconded by the Chair, and adopted four votes in favor and Ms. Marion abstaining, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Kenneth Spencer, 42 Laurel Avenue, Sea Cliff, applied to construct a single story rear addition, which construction requires variances of the following Village Code provisions: (a) 138-504 to maintain a lot size of 9,000 square feet, where a minimum of 10,000 square feet is required; (b) 138-506 to maintain a front line length of 90 feet, where the minimum required length is 100 feet; (c) 138-508 to maintain a front yard setback of 16.3 feet, where the minimum required is 25 feet; (d) 138-509 to maintain a lot width at the setback line of 90 feet, where the minimum required is 100 feet; (e) 138-511 to maintain a side yard setback of 11.25, and also create a side yard setback of 11.25 feet, where the minimum required setback is 15 feet; (f) 138-512 to construct an addition with a rear yard setback of 27.16 feet, where a minimum of 30 feet is required; (g) to maintain a building that encroaches into the height setback ratio plane; and (h) 138-1102 to increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block 195, Lot 5 on the Nassau County Land and Tax Map.
2. The applicant is the owner of the subject premises. The single story addition parallels the existing side building line of the residence and, as explained by the applicant other alternative additions that would provide a bathroom on the first floor would be cost prohibitive and would not flow with the house. The single story addition also is proposed to include 3 windows facing the neighboring property and will not be just a wall.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, (b) no second story shall be constructed above the portion of the addition that encroaches into the required 15 foot yard setback, and the Board would not have granted any relief for a second story; and (c) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

Dina Epstein, Chair

Filed in the Office of the Village Clerk
the day of November 2014

Marianne Lennon, Village Clerk

ZONING BOARD OF APPEALS
VILLAGE OF SEA CLIFF

-----X
In the Matter of the Application of

Rachel Gonzalez and Gerard Camarano

for variances to permit a second story
addition at premises located at
21 Laurel Avenue, Sea Cliff
-----X

STATEMENT

This is an application by Rachel Gonzalez and Gerard Camarano, 21 Laurel Avenue, Sea Cliff to construct a second floor addition, which construction requires variances of the following Village Code sections: (a) 138-506 to maintain a front property line length of 75 feet, where a minimum of 100 feet is required; (b) 138-507 to maintain a lot width of 75 feet, where a minimum of 100 feet is required; (c) 138-509 to maintain a lot width at the setback line of 75 feet, where a minimum of 100 feet is required; (d) 138-511 to maintain side yard setbacks of 9.5 and 12.8 feet, where the minimum required setback is 15 feet; (e) 138-513.1 in that the construction will encroach into the height-setback ratio plane, where no such encroachment is permitted; and (f) 138-1102 in that the addition will increase a non-conformity, where no such increase is permitted. Premises are designated as Section 21, Block K, Lot 4 on the Nassau Cuonty Land and Tax Map.

On motion duly made by Ms. Marion, seconded the Chair, and adopted three votes in favor and Mr. Griffin and Mr. Kopczynski abstaining, Board made the following determination:

RESOLVED, upon consideration of the evidence presented at the public hearings held by the Zoning Board of Appeals (the "Board"), and all proceedings had herein, all documentation submitted to the Board, and following the personal

inspection of the subject property by each of the Board members, and after due deliberation, the Board makes the following findings of fact and decision:

FINDINGS OF FACT

1. The subject property is located at 21 Laurel Avenue, Sea Cliff, and is designated as Section 21, Block K, Lot 4 on the Nassau County Land and Tax Map (the "Premises"). The Premises is located in the Residence B zoning district in the Village of Sea Cliff (the "Village").

2. The Premises is an interior lot with frontage on Laurel Avenue. The Premises is 11,231 square feet. The residence is angled in such a way that the front of the dwelling faces the adjoining westerly property and house. The proposed second story is to be placed on this side of the residence, and the side yard setback intrusion and height-setback intrusion are located at the easterly most point of the dwelling. Much of the front of the Premises contains overgrown evergreen screening, which is not present along the easterly frontage or the easterly side of the Premises. As a result, the proposed second story will be highly visible from its easterly side from the neighboring residence as well as the street during at least one-half of the year. Presently, the portion of the residence on the easterly side of the Premises is only one story and permits a visual open vista along Laurel Avenue in the area where there is limited screening. The proposed second story would eliminate a portion of the open space in the area where the second story encroaches into the side yard setback and the height-setback ratio. Numerically, the second story encroaches 2.2 feet into a 15 foot required setback. The existing first story already encroaches 2.2 feet into the same side yard setback.

3. The Premises has a width of 75 feet, where a minimum of 100 feet is required. By proposing to build into the side yard setback area where the width of

the Premises is deficient, the proposal enlarges the impact of the proposed variances on the neighborhood setting.

4. In reaching the findings and conclusions herein, the Board has considered the testimony, both written and oral, and applied its observations and knowledge of the community and the Premises to the submitted testimony.

5. The variances are area variances. In determining whether to grant an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board is required to consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude the granting of the area variance. In granting a variance, the Board shall grant only the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

6. For the reasons set forth herein, the Board finds and concludes that the area variances are denied. In reaching this conclusion, the Board has considered the relevant statutory factors in relation to the variances.

7. With regard to whether the proposed area variances would produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, the evidence demonstrates that the proposed variances would create an undesirable change in the neighborhood character and a detriment to nearby properties. The dwelling contains existing side yard setbacks of 9.5 and 12.8 feet. Thus, the aggregate side yard encroachment already existing is 7.7 feet, where the minimum required is 30 feet. Thus, the existing deficiency already is 25%. Exacerbating this deficiency, the applicants propose to construct a second story with an encroachment into the side yard setback and the height-setback ratio. The applicant demonstrated no similar situation in the neighborhood, and the Board finds that the existing encroachment when combined with the proposed modification that continues that encroachment above an existing encroachment alone results in an undesirable change. Moreover, the proposed addition is angled in such a way that it visually faces the adjoining residence. That the house faces the neighboring property, and the encroachment is in this location, is a detriment to the neighboring residence. Presently, there is limited open space between the neighboring properties. Closing off any space that goes beyond that permitted by the side yard setback limitations in the Village Code further limits that open space. Accordingly, the proposal would eliminate the open space between the house and neighboring property, space that is visible during at least part of the year. No testimony was presented showing any residence to have similar impacts or circumstances. The zoning restrictions applicable to properties in the Residence B zoning district seek to effectuate the spacious character of the neighborhood. In contradiction, the proposal would create a full second story not consistent with the rationale for the density restrictions in the Village Code.

8. The Board finds that the requested variances, when considered in relation to the existing conditions, are substantial. In reaching this conclusion, the Board is mindful that substantiality cannot be viewed solely in the abstract based on the numerical variation, but rather must encompass the entire proposal and the impact on the neighborhood, the neighboring properties, and the public. As discussed previously, the existing 25% side yard setback encroachments on a property that is 25% narrower than required by the Village Code already create a substantial impact. The proposed second story, which will follow the line of encroachment of the first floor and be located so as to face the neighboring property, results in an even larger impact.

9. For the reasons stated in the preceding paragraph, the combined impact of the variances on the applicants' Premises and the neighboring property combined with the existing deficient width of the dwelling creates a tremendous substantiality.

10. As to whether there are any feasible alternatives for the applicants to pursue, the Board notes that the plans depict 2 bedrooms on the second story in the area of the proposed addition, and that a reduction of 2.2 feet in width still would provide the applicants with sufficiently sized bedrooms, with one of the bedrooms providing a width of 18 feet if reduced to comply with the requirements of the zoning code.

11. As to whether the proposed variances will have an adverse impact on the physical or environmental conditions in the neighborhood, the Board finds that there will be such an adverse impact. The rationale of the Village's zoning plan is to create conformance with standards relevant to the Village and the zoning districts

within the Village. For the reasons identified above, the proposed variances are completely at odds with those requirements.

12. As to the self-created hardship, the Board finds that the proposed variances are self-created. The applicants purchased the property with actual or constructive knowledge of the existing zoning limitations and that any addition to encroachment into the side yard setback would result in a need to apply for a variance. Despite this knowledge, the applicants decided to propose additions to the residence. It is evident that the hardship is self-created. Notwithstanding such finding, the Board would deny the variances based on its consideration of the other factors set forth above.

13. For the foregoing reasons, the Board denies the area variances.

Filed in the Office of the Village Clerk
the day of November 2014

Marianne Lennon, Village Clerk

VIRA SHORT FORM DECISION
(as authorized by Village Code §138-1302.1)

At a meeting of the Board of Appeals of the Village of Sea Cliff, New York, on October 30, 2014, on motion of Mr. Griffin, seconded by Mr. Toner, and adopted four votes in favor and the Chair not participating, the Board, having duly considered the matters brought forth at the public hearing and other matters properly within the consideration of this Board and discussed the subject application, rendered the following findings and determination:

1. Manish and Pooja Vira, 328 Carpenter Avenue, Sea Cliff, New York applied to reconstruct a residence, which construction requires variances of the following Village Code sections: (a) 138-513 to maintain a height of 38.6 feet where a maximum of 30 feet is permitted; and (b) 138-514.1 to increase the floor area to 5,133 square feet, where a maximum of 4,389 square feet is permitted. Premises are designated as Section 21, Block 60, Lot 256 on the Nassau County Land and Tax Map. Mr. Vira discussed the changes between the current proposal and previous application. The primary changes are that the front porch has been reduced from a depth of 12 feet to a depth of 8 feet, and the breezeway connecting the house to the garage was removed. As a result of these changes, the applicants were able to reduce the floor area to 5,133 square feet (previous proposal proposed 5,688 square feet) and eliminate the side yard setback variance.
2. The applicants own the subject premises. The applicants modified their original proposal to reduce the depth of the front porch from 12 feet to 8 feet and eliminated the breezeway connecting the garage to the residence. After the submission of this modified application, the applicants proposed a further modification to include a breezeway with a flat roof, but upon learning that such modification would require an additional variance not included in the current application, the applicants withdrew that modified proposal. In September, the Board denied an application by the applicants to construct modifications that would have included the 12 foot front porch and a breezeway with a peaked roof structure higher than the existing garage.
3. The requested relief is classified as a Type II action under SEQRA, which requires no environmental review.
4. The application was referred to the Nassau County Planning Commission in accordance with the streamlining agreement between the Village and the Planning Commission, and no response was received from the Planning Commission.
5. The relief requested in the application is granted provided that (a) the construction shall conform substantially with the plans submitted with the application, and (b) all work is performed, and all approvals obtained, within the timeframe provided in Village Code §138-1304.

James Toner, Acting Chair

Filed in the Office of the Village Clerk
the day of November 2014

Marianne Lennon, Village Clerk